

A.G. Contract No.: KR04-1517TRN
ECS File No.: JPA 04-075
Project No.: S-092-A-506
Section: SR 92 at Jct. Buffalo Soldier
Trail Intersection
TRACS No.: H6696 01C / 01D
Budget Source Item No.: 70205, 73305,
75605, 74805, 70705

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF SIERRA VISTA

THIS AGREEMENT is entered into 29 November, 2004, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF SIERRA VISTA acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The State and the City desire to participate in the design, construction and maintenance of the following improvement; a) Dual West bound left-turn and south bound right-turn movement at the intersection of State Route (SR) 92 and Buffalo Soldier Trail; to also include roadway & bridge widening, raised medians, resurfacing, drainage and traffic signal system improvements, at the States expense, estimated at, but not to exceed \$500,000.00, hereinafter referred to as the "Project". The State will provide "On-Call" Design Consultants for the project design, including traffic signal system improvements, and upon furnishing the completed plan sheets to the City, the City of Sierra Vista will become the "Lead Agency" to advertise, award, and administer this approximate \$ 1.1 M Project.

4. The parties hereto agree to and acknowledge the following conditions: a) The parties shall perform their responsibilities consistent with this Agreement; and b) Any change or modification to the Project will only occur with the mutual written consent of the parties.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27247
Filed with the Secretary of State
Date Filed: 11/29/04
Janice K. Brewer
Secretary of State

By: Darryl Braunebold

Item No : 70205 Development Support Traffic Design	\$150,000.00
Item No : 70705	\$ 75,000.00
Item No : 75605	\$ 50,000.00
Item No : 74805	\$ 75,000.00
Item No : 73305	<u>\$300,000.00</u>
Total Estimated Construction Costs (Not to Exceed)	<u>\$500,000.00</u>

II. SCOPE OF WORK

1. The State will:

a. Provide design plans using ADOT "On-Call" Design Consultants for the project design, including traffic signal system improvements, at a cost not to exceed \$150,000.00 and submit same to the City for concurrence.

b. Review the design documents required for construction of the Project and provide comments to the City as appropriate.

c. Submit to the City the final traffic signal system improvement plan sheets to be incorporated into the construction documents.

d. Provide electrical operations inspection of traffic signal system, bridge-widening inspection, and structural materials sampling and testing during construction.

e. Upon execution of this Agreement, receipt and approval of an invoice, remit to the City an amount not to exceed \$500,000.00 for the Project.

f. Upon completion and acceptance of the Project by both parties, maintain that portion of the completed project within the State's SR 92 Right-of-Way.

2. The City will:

a. Upon completion of the ADOT furnished Design Plans, including plan sheets for the Traffic Signal system improvements, become the "Lead Agency" to prepare and provide a contract bidding package, including specifications and other such documents and services required for construction bidding and construction of the Project and submit same to the State for concurrence.

b. Review the ADOT plan sheets furnished for the traffic signal system improvements, provide comments and incorporate into the construction documents.

c. Call for bids and award one or more construction contract(s) for the Project. Administer same and make all payments to the contractor(s). Be responsible for contractor claims for additional compensation caused by Project delays or whatever reasons attributable to the City.

d. Be responsible for engineering and design costs exceeding the \$150,000.00 State allowance for this Project.

e. Be responsible to provide maintenance to those sections of the Buffalo Soldier Trail roadway that are outside the limits of ADOT SR 92 Right-of-Way.

f. Upon completion of the Project perform the final inspection and notify the State in writing that the Project has been constructed in accordance with the Project documents and has been satisfactorily completed.

g. Upon execution of this Agreement, invoice the State for an amount not to exceed \$500,000.00 for the Project.

h. Upon completion, approval and acceptance of the Project and on behalf of the parties herein, provide electrical power to operate the signal system, including associated overhead illumination, at the City's expense.

i. Obtain the necessary Encroachment Permit through the Safford District Maintenance Office, for the construction and maintenance of the Project.

II. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion and reimbursements; provided herein. However, any provisions for maintenance, provided by the City shall be perpetual. This Agreement may be cancelled at any time prior to the award of a Project construction contract, upon thirty-days (30) written notice to either party. It is understood and agreed that, in the event the City terminates this Agreement, the State shall in no way be obligated to maintain the said Project.

2. This Agreement shall become effective upon filing with the Secretary of State.

3. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

4. The provisions of Arizona Revised Statutes § 35-214 pertaining to State audit are applicable to this contract. In the event of such an audit, the City will bear all costs associated therewith.

5. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 121-1-12213) and all applicable Federal regulations under the Act including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

6. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

7. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007
(602) 712-7525

City of Sierra Vista
Attn: Public Works Director
401 Giulio Cesare Avenue
Sierra Vista, AZ 85635
(520) 458-5775

9. Pursuant to Arizona Revised Statutes § 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

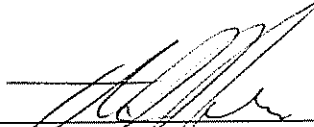
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF SIERRA VISTA

STATE OF ARIZONA

Department of Transportation

By

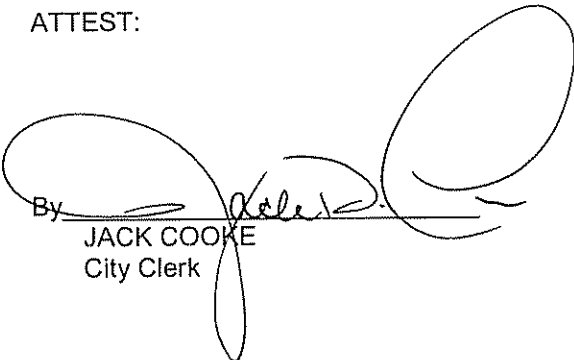

TOM HESSLER
Mayor

By


MICHAEL J. ORTEGA
State Engineer

ATTEST:

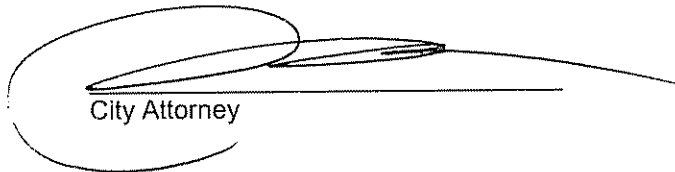
By


JACK COOKE
City Clerk

APPROVAL OF THE CITY OF SIERRA VISTA

I have reviewed the above referenced proposed intergovernmental Agreement, between the DEPARTMENT OF TRANSPORTATION, TRANSPORTATION PLANNING DIVISION, and CITY OF SIERRA VISTA and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this _____ day of _____, 2004.


City Attorney

RESOLUTION 2004-164

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; AUTHORIZING THE CITY TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION TO CONSTRUCT INTERSECTION IMPROVEMENTS, INCLUDING A DUAL LEFT TURN, AT STATE ROUTE 92 AND BUFFALO SOLDIER TRAIL; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, it is the settled policy of the City Council to authorize the City staff to seek, make application for, and accept any federal and state funding assistance for improvements to our community that are beyond the funding capability of City revenues, when it is determined to be in the best interest of the City; and

WHEREAS, the City and State share responsibilities of providing streets and public roadways which are safe and meet the transportation needs of the general public; and

WHEREAS, the anticipated future volume of traffic at the intersection of State Route 92 and Buffalo Soldier Trail cannot be safely or expeditiously accommodated by the existing intersection configuration and must be upgraded; and

WHEREAS, it is the mutual interest and benefit for ADOT and the City to improve the intersection of State Route 92 and Buffalo Soldier Trail; and

WHEREAS, both parties desire to enter into an intergovernmental agreement that will allow ADOT to share the costs to construct said improvements to the Intersection of State Route 92 and Buffalo Soldier Trail.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

The policy of the City of Sierra Vista relating to intergovernmental agreements, most recently affirmed by Resolution 2004-142, be, and hereby is, reaffirmed.

SECTION 2

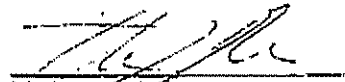
That the City Council approves entering into an intergovernmental agreement with ADOT to construct improvements to the intersection of State Route 92 and Buffalo Soldier

Trail, attached and made a part hereof by this reference.

SECTION 3

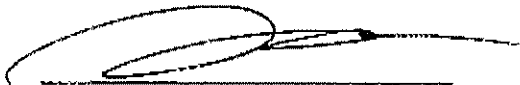
The City Manager, City Clerk, City Attorney or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA THIS 28th DAY OF OCTOBER 2004.



Thomas J. Hessler
Mayor

Approval as to Form:



Stuart J. Fauver
City Attorney

Attest:



Jack D. Cooke
City Clerk

Prepared by: Michael Hemesath, Director, Department of Public Works



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR04-1517TRN (**JPA 04-075**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: November 18, 2004

TERRY GODDARD
Attorney General

A handwritten signature in cursive script that reads "Susan Davis".

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section